

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

No. CR-13-6025-EFS

Plaintiff,

**ORDER REQUIRING FURTHER BRIEFING
ON DEFENDANT'S SUPPRESSION
MOTION, INVITING THE ELECTRONIC
FRONTIER FOUNDATION TO FILE AN
AMICUS BRIEF, CONTINUING TRIAL,
AND EXCLUDING SPEEDY-TRIAL ACT
TIME**

v.

LEONEL MICHEL VARGAS,

Defendant.

A pretrial conference occurred in the above-captioned matter on October 8, 2013. Defendant Leonel Michael Vargas was present, represented by John Matheson. Alex Exstrom appeared on behalf of the U.S. Attorney's Office (USAO). Before the Court was Defendant's Motion to Suppress Evidence from Continuous Video Surveillance Pole Cam, ECF No. 47. The issue is whether Defendant's Fourth Amendment right to be free from unreasonable search was violated by law enforcement's warrantless use of a video camera, which was installed on a telephone pole, to record the activity occurring in Defendant's rural front yard for an approximate thirty-day period. The Court has reviewed the record and relevant authority; the Court advised counsel that it requires additional briefing from the parties. The parties' supplemental briefs shall address what impact, if any, the following legal authority has on the issue before the Court: *Florida v.*

1 *Jardines*, 133 S. Ct. 1409 (2013); *United States v. Jones*, 132 S. Ct.
2 945 (2012); *Kyllo v. United States*, 533 U.S. 27 (2001); and Wayne
3 LaFave, *Search & Seizure: A Treatise on the Fourth Amendment* (5th
4 ed.). Following the hearing, the Court determined that an amicus
5 brief filed by the Electronic Frontier Foundation (EFF) may benefit
6 the Court's resolution of this issue. Accordingly, to accommodate the
7 filing of an amicus curiae brief by EFF if it so chooses, the Court
8 extends the parties' deadlines for filing the supplemental briefs.

9 **IT IS HEREBY ORDERED:**

10 1. A copy of this Order, along with the Indictment and briefs
11 related to the suppression motion, ECF Nos. 12, 48, 49, &
12 53, shall be mailed to EFF, 815 Eddy Street, San Francisco,
13 CA 94109.

14 2. If EFF desires to file an amicus brief pertaining to
15 Defendant's Motion to Suppress Evidence from Continuous
16 Video Surveillance Pole Cam, ECF No. 47, it shall do so no
17 later than **December 2, 2013**. This brief shall be limited
18 to fifteen pages.

19 3. The USAO's supplemental brief, which shall be limited to
20 fifteen pages, shall be filed no later than **December 20,**
21 **2013**.

22 4. Defendant's supplemental brief, which shall be limited to
23 fifteen pages, shall be filed no later than **January 10,**
24 **2014**.

5. Pretrial Conference

a. The pretrial conference is **RESET** to **February 11, 2014**, at **10:00 a.m.** in **RICHLAND**. At that time, the Court will hear all pretrial motions, including Defendant's Motion to Suppress Evidence from Continuous Video Surveillance Pole Cam, ECF No. 47.

b. This pretrial conference is set for **two hours**.

6. **Trial.** The Court **SETS** this matter for jury trial on **March 3, 2014, at 9:30 A.M. in RICHLAND.** Counsel and Defendant shall be prepared to meet with the Court at least thirty (30) minutes prior to the commencement of the trial.

7. Pursuant to 18 U.S.C. § 3161(h)(1)(D), the Court **DECLARES**
EXCLUDABLE from Speedy Trial Act calculations the period
from **September 19, 2013**, the date Defendant filed his
suppression motion, through **March 3, 2014**, the date set for
hearing on the suppression motion.

8. The **Original CMO**. Counsel must review the provisions of the original June 28, 2013 CMO, ECF No. 44, and abide by those procedures which remain in full force and effect and are incorporated herein except for the new compliance deadlines in the following Summary of Amended Deadlines.

9. Summary of Deadlines

Rule 16 expert summaries produced to other parties and emailed to Court: Defendant's Experts: USAO's Rebuttal Experts:	January 6, 2014 January 13, 2014
All pretrial motions, including discovery motions, Daubert motions, and motions <i>in limine</i> , filed	January 21, 2014

PRETRIAL CONFERENCE	February 11, 2014
Deadline for motions to continue trial	10:00 A.M. - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendant (if applicable)	February 14, 2014
Grand jury transcripts produced to Defendant	
Case Agent:	February 14, 2014
CIs:	February 14, 2014
Other Witnesses:	February 14, 2014
Exhibit lists filed and emailed to the Court	February 21, 2014
Witness lists filed and emailed to the Court	February 21, 2014
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	February 21, 2014
Exhibit binders delivered to all parties and to the Court	February 25, 2014
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	February 21, 2014
Trial notices filed with the Court	February 21, 2013
Technology readiness meeting (in-person)	February 25, 2013
JURY TRIAL	March 3, 2014 9:30 A.M. - RICHLAND

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

DATED this 18th day of October 2013.

s/ Edward F. Shea
EDWARD F. SHEA
Senior United States District Judge